

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 16, 2001

D036991 Metropolitan News Company v. County of Los Angeles/Daily Journal Corporation

The judgment is affirmed. County and Daily Journal are awarded costs on appeal. Nares, Acting P.J.;
We Concur: Haller, J., McDonald, J.

D035492 Loretz v. Hall et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Respondents shall also
recover their reasonable attorney fees on appeal, the amount of which will be determined by the trial court
upon remand. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

**D037362 Keenan & Associates v. Superior Court of San Diego County/Insurance Company of
the West**

The petition is denied.

D036116 People v. Dejesus

Judgment affirmed. Nares, J.; We Concur: Huffman, J., Haller, J.

D037745 In re Polselli on Habeas Corpus

The petition is denied.

D035235 Rebello v. Prestige Stations et al.

Upon written stipulation filed by the parties to the appeal, the appeal is DISMISSED and the remittitur is
ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D037743 In re Storrs on Habeas Corpus

The petition is denied.

D035891 Currie v. City of San Diego et al.

The request for partial publication of the opinion is denied.

D035917 In re Amaya S., a Juvenile

It is ordered that the opinion filed on March 19, 2001, is modified. There is no change in judgment. The
request for publication is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 17, 2001

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald
Deputy Clerk: D. E. Moore

D036470 In re Melanie G. et al., Juveniles

D037072 In re Melanie and Lanae G., minors on Habeas Corpus

Causes called on merits. Donna Kaiser, Esq. argued for appellant. Kathryn Krug, Deputy County Counsel argued for respondent. Ms. Kaiser replied for appellant. Cause submitted as to D036470 ONLY.

D030980 People v. Blanco et al.

Cause called on merits. Robert E. Boyce, Esq. argued for appellant, Vasquez. Gary E. Nelson, Esq. argued for appellant, Fuerte. Doug Danzig, Deputy Attorney General argued for respondent. Mr. Boyce replied. Mr. Nelson replied. Cause submitted.

Court recessed at 9:50 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

D036843 In re Adriana S., a Juvenile

Cause called on merits. Donna Kaiser, Esq. argued for appellant. Alice C. Shotton, Esq. argued for the minor. Dee Dykeman, Deputy County Counsel argued for respondent. Ms. Kaiser replied for appellant. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

D036851 In re Marriage of Constant

The QDRO entered on July 31, 1998, is vacated. The matter is remanded to the trial court for its entry of the QDRO proposed by Sharon and consideration of her request for attorney fees. Sharon is awarded costs on appeal. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

D037074 Marie M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The detriment finding and order referring the matter to a section 366.26 hearing is vacated. The matter is remanded to the trial court to conduct a rehearing consistent with this opinion and the opinion issued in Marie M. v. Superior Court (D036367). In all other respects the petition is denied. This opinion is final immediately as to this court. (Cal. Rules of Court, rule 24(d).) McIntyre, J.; We Concur: Kremer, P.J., McDonald, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and James McIntyre
Deputy Clerk: D. E. Moore

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 17, 2001 (Continued)

D035028 Gurrola et al. v. Boettcher

Cause called on merits. Joseph Lisoni, Esq. argued for appellant. Lee H. Roistacher, Esq. argued for respondent. Mr. Lisoni replied for appellant. Cause submitted.

Court recessed at 1:52 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D035323 Martin v. Board of Administration for San Diego

Cause called on merits. Leah Zinter, Esq. argued for appellant. Sheila M. Leone, Esq. argued for respondent. Ms. Zinter replied for appellant. Cause submitted.

Court adjourned at 2:15 p.m.

D036993 Visionshape, Inc. v. Kofax Image Products, Inc.

The judgment is affirmed. Costs are awarded to respondent. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D036855 Kelly v. Fire Insurance Exchange

The judgment is reversed. Kelly is awarded costs on appeal. McDonald, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D036825 Chavez v. Food For Less Supermarkets, Inc., et al.

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

D036876 In re Charlie H., a Juvenile

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D037447 Robert Bosch GmbH, v. Superior Court of San Diego County/Lori Y. et al.

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 18, 2001

D034700 Greater Perris Valley Industrial Association et al. v. County of Riverside et al.

The judgment is modified to reduce the damages awarded to respondents against County to the following amounts: (1) John and Barbara Harvill/AMI Trust, \$980,233.19; (2) CLA-VAL Company, \$727,068.38; (3) Richard and Carole Cramer, \$208,396.12; (4) Star Milling Company \$218,408.06; (5) McAnally Enterprises, Inc., \$646,610.17; (6) Bainbridge-Seventeen Ltd., \$651,867.44; and (7) L&B Contract Industries West, \$279,254.26. The judgment as so modified is affirmed. Appellants and respondents are to bear their own costs on appeal. McDonald, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D036484 Protomark, Inc. v. Armstrong Petroleum Corporation et al.

The petition for rehearing is denied.

D036484 Protomark, Inc. v. Armstrong Petroleum Corporation et al.

The opinion filed March 26, 2001, is modified as follows:

The last sentence of the last paragraph beginning on page 17 and ending on page 18 is omitted. The omitted sentence is as follows: "Indeed, by its special verdict, the jury expressly rejected the theory that Pacific waived its 'refund right' before assignment of the option agreement by any words or conduct, a finding we note is seemingly inconsistent with its finding that the refund right was not exercised within a reasonable time." There is no change in the judgment.

D034441 People v. Fletcher

D034446 Wendell Fletcher

The judgments are affirmed. Work, J.; We Concur: Kremer, P.J., Benke, J.

D037627 Brandi M. v. Superior of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Brandi M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D036304 In re Ramiro V. et al., a Juvenile

D037088 Isabel N. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The pending petition for writ of mandate is consolidated with the pending appeal for disposition.

D036304 In re Ramiro V. et al., a Juvenile

D037088 Isabel N. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The appeal is dismissed. The petition is denied. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

D036637 In re Shanice F., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 18, 2001 (Continued)

D034644 Hau v. Edwards et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. Work, J.;
We Concur: Kremer, P.J., Benke, J.

D034513 People v. Lewis

Reversed and remanded for a new trial. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D035214 People v. Perez

The true finding on the section 12022.53, subdivision (d) allegation is reversed and remanded to the trial court for a new trial with these directions: If the People do not bring Perez to trial within 60 days after the filing of the remittitur in the superior court, the court shall dismiss the allegation pursuant to section 1382, subdivision (a)(2), and modify the abstract of judgment accordingly.

The trial court shall also strike the section 12022.7 enhancement on count one and the section 12022.5 enhancement on count two, and modify the abstract judgment accordingly.

The trial court shall send the modified abstract of judgment to the Department of Corrections.

In all other respects, the judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D037642 J.G. Wentworth SSC Limited v. Superior Court of San Diego County/McMullen

The petition is denied.

D035921 Urias et al. v. Lewis et al.

The petition for rehearing is denied.

D036454 People v. Castellanos

Appellant's conviction for falsely identifying himself to a police officer (count two) is reversed; in all other respects the judgment is affirmed. Benke, J.; We Concur: Work, Acting P.J., O'Rourke, J.

D036843 In re Adriana S., a Juvenile

The judgment is reversed. The matter is remanded to the juvenile court for a new selection and implementation hearing under section 366.26 consistent with the views expressed in this opinion.

Nares, J.; We Concur: Kremer, P.J., Haller, J.

D034305 Grgat v. Discount Tire Company, Inc.

The order denying Discount's motion for a judgment notwithstanding the verdict is reversed and on remand the trial court is instructed to enter judgment in favor of Discount. Discount to recover its costs on appeal. Benke, J.; We Concur: Kremer, P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 19, 2001

D037374 Losse v. Superior Court of San Diego County/Montreuil
The petition is denied.

D037634 Daniel V. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency.
The attorney for petitioner Daniel V. has notified the court on behalf of petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D036834 Squyres v. Gateway Title Company
The judgment is affirmed. Gateway is to recover its costs on appeal. McIntyre, J.;
We Concur: Nares, Acting P.J., O'Rourke, J.

D034344 People v. Smith
The sentence is modified to strike the prior term enhancement. The trial court is directed to amend the abstract of judgment accordingly and to forward it to the Department of Corrections. In all other respects, the judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., Benke, J.

D035259 People v. Hunt
The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Nares, J.

D034789 People v. Jamchi
The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D035300 People v. Rose
The judgment (order of commitment) is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D035329 Holloway v. Bardley
The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., Benke, J.

D036016 People v. Lucas
The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D033978 People v. Beauchamp
The judgment is modified to strike the concurrent sentence imposed on count 2 and to specify that sentence on that count is stayed pursuant to section 654. The superior court is directed to prepare an amended abstract of judgment reflecting this modification and to forward the amended abstract to the Department of Corrections. As modified, the judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D036027 Vails-Weber v. Trustees of the California State University
The judgment is affirmed. CSU is entitled to costs on appeal. Work, Acting P.J.; We Concur: Benke, J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 19, 2001 (Continued)

D036523 Herring v. Shappell Industries et al.

The order granting the motion for new trial as to damages is reversed and the jury verdict is reinstated. Shappell, Topa, Village LaPaz and the Adamses to recover costs of appeal. Benke, J.;
We Concur: Kremer, P.J., Huffman, J.

D037755 Pardee Construction Company v. Superior Court of San Diego County/American States Insurance Company et al.

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 20, 2001

D037783 Grace R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The petition is denied.

D034948 People v. Weise et al.
It is ordered that the opinion filed March 23, 2001, is modified. There is no change in judgment. The petition for rehearing is denied.

D036872 In re Robert K., a Juvenile
The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D035791 In re Marriage of Turner
The order imposing the \$3,800 sanction is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D036204 People v. Freeman
Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D034731
People v. Romero et al.
The opinion filed March 28, 2001, is modified. No change in judgment.

D036326 Carver et al. v. Chevron U.S.A., Inc., et al.
Upon filing a written abandonment and request for dismissal of appeal filed by Jim Emley and Arlene Emley, the appeal of Jim Emley and Arlene Emley is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D037658 Chandler et al. v. Dubai Development Company, Inc. et al./ESSD, Inc.
The appeal is DISMISSED as untimely.

D037648 Wilson, a Minor et al. v. County of San Diego
The notice of appeal of the denial of motion for new trial is dismissed as non-appealable. The first amended notice of appeal is dismissed as untimely.

D036470 In re Melanie G. et al., Juveniles
D037072 Lonnie G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
(consolidated) The judgment is affirmed. The petition is dismissed. McDonald, J.; We Concur: Nares, Acting P.J., Haller, J.

D034535 Swain et al. v. Harris
D035725 Harris et al. v. Swain et al.
(Consolidated) It is ordered that the opinion filed on March 26, 2001, is modified. There is no change in judgment. The petition for rehearing is denied.